

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

Jerome Stanley,

Plaintiff,

v.

Officer Michael Slager *and* City of North
Charleston,

Defendants.

Civil Action No. 2:15-5005-RMG

ORDER

2016 APR -8 PM 2:03
U.S. DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending that the City of North Charleston be dismissed from this action and that Plaintiff's third cause of action, for deliberate indifference, be dismissed. For the reasons set forth below, the Court declines to adopt the Report and Recommendation and recommit this matter to the Magistrate Judge.

Plaintiff Jerome Stanley filed the present action on December 18, 2015, alleging that on December 22, 2013, he was sleeping in his vehicle when North Charleston Police Officer Michael Slager pulled him from the vehicle, tased him multiple times, and arrested him. (Dkt. No. 1 ¶¶ 10–22.) Plaintiff was charged with disorderly conduct and resisting arrest. (Id. ¶ 17.) After a jury trial, Plaintiff was acquitted of disorderly conduct and convicted of resisting arrest. Municipal Court Return, 2015-CP-10-3122 (S.C.C.P. May 20, 2015). His conviction is currently on appeal. *See id.*

Plaintiff originally alleged federal causes of action under 42 U.S.C. § 1983 and state law causes of action for false imprisonment, malicious prosecution, and intentional infliction of emotional distress, and named the City of North Charleston, the North Charleston Police Department, and Officer Slager as Defendants. (Dkt. No. 1.) Defendants moved to dismiss the

North Charleston Police Department and the City of North Charleston from this action on February 2, 2016. (Dkt. No. 7.) Plaintiff failed to oppose that motion, and on March 10, 2016, the Magistrate Judge recommended that Defendants' motion be granted based on waiver. (Dkt. No. 15.) Four days later, on March 14, 2016, Plaintiff filed a consent motion for voluntary dismissal of his claims against the North Charleston Police Department, for voluntary dismissal of his state law claims for intentional infliction of emotional distress, and for an extension of time to respond to Defendants' motion to dismiss. (Dkt. No. 18.) The Court granted that motion and ordered Plaintiff to file a single brief opposing the motion to dismiss and objecting to the Report and Recommendation. (Dkt. No. 21.) Plaintiff filed that brief on March 24, 2016. (Dkt. No. 26.) As the Magistrate Judge did not have an opportunity to address the parties' arguments on the merits, the Court declines to adopt the Report and Recommendation and recommits this matter to the Magistrate Judge for further proceedings.

For the foregoing reasons, the Court **DECLINES TO ADOPT** the Report and Recommendation and **RECOMMITS** this matter to the Magistrate Judge for further proceedings.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'RM Gergel', written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

April 8, 2016
Charleston, South Carolina